

§ 162.247

25 CFR Ch. I (4–1–13 Edition)

LEASE ENFORCEMENT

§ 162.247 Will BIA notify a tenant when a rent payment is due under an agricultural lease?

We may issue bills or invoices to a tenant in advance of the dates on which rent payments are due under an agricultural lease, but the tenant's obligation to make such payments in a timely manner will not be excused if such bills or invoices are not delivered or received.

§ 162.248 What will BIA do if rent payments are not made in the time and manner required by an agricultural lease?

(a) A tenant's failure to pay rent in the time and manner required by an agricultural lease will be a violation of the lease, and a notice of violation will be issued under § 162.251 of this subpart. If the lease requires that rent payments be made to us, we will send the tenant and its sureties a notice of violation within five business days of the date on which the rent payment was due. If the lease provides for payment directly to the Indian landowners, we will send the tenant and its sureties a notice of violation within five business days of the date on which we receive actual notice of non-payment from the landowners.

(b) If a tenant fails to provide adequate proof of payment or cure the violation within the requisite time period described in § 162.251(b) of this subpart, and the amount due is not in dispute, we may immediately take action to recover the amount of the unpaid rent and any associated interest charges or late payment penalties. We may also cancel the lease under § 162.252 of this subpart, or invoke any other remedies available under the lease or applicable law, including collection on any available bond or referral of the debt to the Department of the Treasury for collection. An action to recover any unpaid amounts will not be conditioned on the prior cancellation of the lease or any further notice to the tenant, nor will such an action be precluded by a prior cancellation.

(c) Partial payments may be accepted by the Indian landowners or us, but acceptance will not operate as a waiver with respect to any amounts remaining

unpaid or any other existing lease violations. Unless otherwise provided in the lease, overpayments may be credited as an advance against future rent payments, or refunded.

(d) If a personal or business check is dishonored, and a rent payment is therefore not made by the due date, the failure to make the payment in a timely manner will be a violation of the lease, and a notice of violation will be issued under § 162.251 of this subpart. Any payment made to cure such a violation, and any future payments by the same tenant, must be made by one of the alternative payment methods listed in § 162.227(b) of this subpart.

§ 162.249 Will any special fees be assessed on delinquent rent payments due under an agricultural lease?

The following special fees will be assessed if rent is not paid in the time and manner required, in addition to any interest or late payment penalties that must be paid to the Indian landowners under an agricultural lease. The following special fees will be assessed to cover administrative costs incurred by the United States in the collection of the debt:

The tenant will pay * * *	For * * *
(a) \$50.00	Administrative fee for dishonored checks.
(b) \$15.00	Administrative fee for BIA processing of each notice or demand letter.
(c) 18% of balance due.	Administrative fee charged by Treasury following referral for collection of delinquent debt.

§ 162.250 How will BIA determine whether the activities of a tenant under an agricultural lease are in compliance with the terms of the lease?

(a) Unless an agricultural lease provides otherwise, we may enter the leased premises at any reasonable time, without prior notice, to protect the interests of the Indian landowners and ensure that the tenant is in compliance with the operating requirements of the lease.

(b) If an Indian landowner notifies us that a specific lease violation has occurred, we will initiate an appropriate investigation within five business days of that notification.